



State Board of Equalization

News Release

Chairman Jerome E. Horton

4th District – Los Angeles

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Jerome E. Horton Announces Out-of-State Retailers' Tax Collection Mandate Delayed; Consumers Still Owe Use Tax

New Law Gives Time for Out-of-State Retailers to Seek Federal Legislation

Jerome E. Horton, Chairman of the California State Board of Equalization (BOE), announced today that the BOE will cease implementation of ABx1 28, the bill signed by the Governor in June as part of the budget requiring tax collection by certain out-of-state retailers. The Governor has signed an alternative measure, AB 155, giving out-of-state retailers time to push for passage of federal legislation, thereby delaying implementation of the previously signed bill. The main provisions of ABx1 28 are also included in AB 155 and will be revived at a later date.

"This new legislative compromise will give out-of-state retailers time to plan for collection of California tax and will provide for a fair, level playing field in the near future for all retailers making sales to California consumers," Horton said.

If a federal law governing the imposition of use tax collection obligations by the states is not enacted on or before July 31, 2012, then the provisions of ABx1 28 that expanded the California use tax collection obligations of out-of-state retailers will again take effect September 15, 2012. If a federal approach is enacted by July 31, 2012, and California does not decide to join the federal solution by enacting conforming state legislation by September 14, 2012, then the provisions of ABx1 28 will revive effective January 1, 2013.

Upon revival, the one change will be that the safe harbor threshold for small retailers will be \$1,000,000 instead of \$500,000. This provision generally requires sales into California by out-of-state retailers to exceed \$1 million per year before collection of tax is necessary.

When out-of-state retailers do not collect California use tax, California consumers remain responsible for payment of use tax on their purchases. Use tax applies generally to purchases of the same types of items that are subject to sales tax. In California, tax applies to the sale or use of tangible personal property, those items that can be seen, weighed, measured, felt, or touched, or which are in any other manner perceptible to the senses. Use tax is the equivalent of sales tax, and has been the law since 1935.

If you are not required to have a permit or a use tax account, the easiest way to report and pay the use tax is on your [California state income tax return](#). You may also register with the BOE as a use tax payer and make the payment directly to the BOE.

As directed by the Board at their September Board meeting, staff will continue with the previously approved interested parties process to discuss potential amendments related to the anticipated revival of the provisions of ABx1 28 on either September 15, 2012, or January 1, 2013. These meetings will be held October 31 and December 20 in Sacramento and November 2 and December 22 in Culver City.

Staff began the process of implementing ABx1 28 by sending questionnaires to some out-of-state retailers to determine if they met the requirements to collect the use tax on sales to California consumers. Those retailers previously contacted by the BOE will receive follow-up letters explaining the change in the law.

Elected in 2010, Chairman Jerome E. Horton is the Fourth District Member of the California State Board of Equalization, representing more than 8.5 million residents in Los Angeles County. He is also the Board of Equalization Legislative Committee chairman. He is the first to serve on the Board of Equalization with over 21 years of experience at the BOE. Horton previously served as an Assembly Member of the California State Assembly from 2000-2006.

The five-member California State Board of Equalization is a publicly elected tax board. The Board of Equalization collects more than \$50 billion annually in taxes and fees supporting state and local government services. It hears business tax appeals, acts as the appellate body for franchise and personal income tax appeals, and serves a significant role in the assessment and administration of property taxes. For more information on other taxes and fees in California, visit www.taxes.ca.gov.

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